

Notice of Allowability

Application No.

09/712,935

Examiner

Naeem Haq

Applicant(s)

XIE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/29/2005.
2. ☒ The allowed claim(s) is/are 1, 7 and 8.
3. ☒ The drawings filed on 05 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20050808</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Response to Amendment

This action is in response to the Applicants' After-Final amendment filed on June 29, 2005. Claims 2-6, 10, 11, and 13-19 have been cancelled. Claims 20-23 were withdrawn in a previous office action and remain withdrawn. Claims 1, 7-9, and 12 are pending and will be considered for examination.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Kent Lembke on August 3, 2005 and August 8, 2005.

The application has been amended as follows:

Cancel claims 9, 12, and 20-23;

Amend claim 1 as follows:

A computer-based method for conducting an on-line auction of a quantity of goods, comprising:

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from a communications network, receiving with an auction engine running on a computer device communicatively linked to the communications network a plurality of proxy bids comprising a limit price and a requested quantity;

sorting with the auction engine the proxy bids in a descending order based upon the limit prices for the proxy bids;

operating the auction engine to determine at least one winner of the on-line auction comprising:

based on the descending order, assigning a winning bidder designation to a first highest one of the proxy bids;

from the quantity of goods, allocating the requested quantity of the proxy bid of the winning bidder to the winning bidder;

when the quantity of goods is greater than zero, assigning a next winning bidder designation to a next highest one of the proxy bids and repeating the allocating of the requested quantity;

after the winner determining, generating with the auction engine a winning sale price to assign to each of the winning bidders, wherein the step of generating the winning sales price further includes:

determining from the descending order a highest losing proxy bid after a last selected one of the next winning proxy bids;

determining the limit price of the highest losing proxy bid; and
incrementing the limit price of the highest losing proxy bid by a predetermined increment

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level to assign the winning sales price with the auction engine and wherein a bidder associated with one of the winning proxy bids declines the allocated goods;

allocating a portion of the requested quantity of the proxy bid of the highest losing proxy bid to the highest losing proxy bid; and

generating with the auction engine a second winning sale price for the highest losing proxy bid that is equivalent to the limit price of the highest losing proxy bid.

Amend claim 7 as follows:

The method according to claim 1, wherein the predetermined increment level is a monetary unit.

Amend claim 8 as follows:

The method according to claim 1, wherein the predetermined increment level is one dollar.

Allowable Subject Matter

Claims 1, 7, and 8 are allowed.

The following is an examiner's statement of reasons for allowance: Statement of allowance is in reference to independent claim 1. All other claims are dependencies of this independent claim.

The present application is directed to a computer-based method for conducting an on-line auction. The method sorts proxy bids in descending order based on the limit

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price of the bids and allocates requested quantities. A winning sales price is determined by incrementing the highest losing proxy bid by a predetermined increment level. Independent claim 1 recites the uniquely patentable feature that a second winning sale price is generated for the highest losing proxy bid that is equivalent to the limit price of the highest losing proxy bid after a bidder associated with one of the winning proxy bids declines the allocated goods.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Discussion of most relevant prior art:

The following references have been identified as the most relevant prior art to the claimed invention.

(i) US Patent 5,835,896 to Fisher et al. hereinafter referred to as Fisher. Fisher substantially discloses the claimed invention. However, Fisher does not teach or suggest generating a second winning sale price for the highest losing proxy bid that is equivalent to the limit price of the highest losing proxy bid after a bidder associated with one of the winning proxy bids declines the allocated goods. Fisher teaches that after a bidder declines an allocated quantity of goods, the prices of the items are determined by market conditions (col. 11, lines 14-34; col.12, lines 1-17).

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(ii) Business Wire "Bid.com Launches Personalized Marketing Service For Its Customers; Use of Net Perceptions Real-time Recommendation Engine a First for Online Auctions" (Retrieved from ProQuest) hereinafter referred to as Bid.com. Bid.com discloses using a bidder's bidding history to recommend items based on an individual's preferences. Bid.com does not teach or suggest generating a second winning sale price for the highest losing proxy bid that is equivalent to the limit price of the highest losing proxy bid after a bidder associated with one of the winning proxy bids declines the allocated goods.

(iii) Japanese Patent Publication 2002-163488 to Sugiyama et al. hereinafter referred to as Sugiyama. Sugiyama discloses a serial auction system. Sugiyama does not teach or suggest generating a second winning sale price for the highest losing proxy bid that is equivalent to the limit price of the highest losing proxy bid after a bidder associated with one of the winning proxy bids declines the allocated goods.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naeem Haq, Patent Examiner
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August 8, 2005



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